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Notice of Allowability

Application No.

10/665,073

Examiner

Aaron Roane

Applicant(s)

FLETCHER ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/28/2005.
2. ☒ The allowed claim(s) is/are 1,3-13,15,16 and 18-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 9/22/03 & 9/21/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060306.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other IDS 3/9/2006.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gavin N. Manning (Reg. No. 36,412) on 3/3/2006.

The application has been amended as follows:

Claim 2 is cancelled. All withdrawn claims are rejoined and allowable.

Claim 1 is rewritten as the following:

1. A flexible heat exchanger for warming or cooling a living subject, the heat exchanger comprising: a volume having at least one inlet for receiving a heat exchange fluid and at least one outlet; a flexible sheet-like heat exchange plate essentially impermeable to the heat exchange fluid, the plate comprising a plurality of substantially rigid thermally conductive members extending through a flexible material of the plate from an outer surface of the flexible material into the volume, wherein the thermally conductive members project into the volume and have bases that project past the outer

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surface of the flexible material; and wherein the volume is defined between the plate and a flexible sheet-like back wall spaced apart from the plate.

Claim 11 has been amended such that the last line is changed from “outer side of the flexible heat exchange plate” to -- outer surface of the flexible material of the flexible heat exchange plate--.

Claim 19, line 4 has been amended such that the phrase “to the second” has been changed to --to a second--.

Claim 24, line 3, the phrase “the outside surface of the plate” has been changed to -- the outer surface of the flexible sheet-like heat exchange plate--.

Claim 25 is rewritten as the following:

25. A flexible heat exchanger according to claim 1 wherein the heat exchanger comprises spacing means for preventing the back wall from collapsing against the flexible plate.

Claim 27, in line 6 has been amended such that the word “input” has been changed to --inlet-- and in line 9, the word “output” has been changed to --outlet--.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

the prior art does not disclose, imply, suggest, teach and/or provide a properly motivated combination thereof disclosing two flexible sheets impermeable to fluid, defining a volume and enclosing a fluid therein wherein a plurality of rigid thermally conductive members extend through the first flexible sheet from an outer surface of the flexible sheet into the volume.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

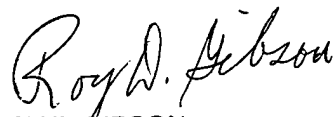
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (571) 272-4771. The examiner can normally be reached on Monday-Thursday 7AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.R. A.R.
March 4, 2006


ROY D. GIBSON
PRIMARY EXAMINER